

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 1, 2006**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of November 1, 2006, was called to order by Mayor Hitchcock at 5:35 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), regarding Association of Lodi City Employees (General Services and Maintenance and Operators) and Lodi City Mid-Management Association pursuant to Government Code §54957.6
- b) Actual Litigation: Government Code §54956.9(a); One Case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Actual Litigation: Government Code §54956.9(a); One Case; People of the State of California and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

**C-3     ADJOURN TO CLOSED SESSION**

At 5:35 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:07 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:18 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only.

In regard to Items C-2 (b) and (c), settlement direction was given.

**A.     CALL TO ORDER / ROLL CALL**

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Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**B.     INVOCATION**

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

**C.     PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Hitchcock.

**D.     AWARDS / PROCLAMATIONS / PRESENTATIONS**

D-1     Awards – None

D-2 Proclamations – None

D-3 (a) Public Works Director, Richard Prima, gave a presentation to the City Council regarding the watershed mural design for 207 West Oak Street.

D-3 (b) Transportation Manager, Tiffani Fink, and Planning Manager, Peter Pirnejad, gave a presentation to the City Council regarding the Railroad Corridor Transit Oriented Development Plan grant award from the California Department of Transportation in the amount of \$75,000.

D-3 (c) City Clerk Johl gave an update on the Centennial activities being planned for 2006.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Johnson, Beckman second, unanimously approved the following items hereinafter set forth:

E-1 Claims were approved in the amount of \$2,420,735.48.

E-2 The minutes of September 6, 2006 (Regular Meeting), September 20, 2006 (Regular Meeting), October 4, 2006 (Regular Meeting), October 17, 2006 (Shirtsleeve Session), October 18, 2006 (Regular Meeting), October 24, 2006 (Shirtsleeve Session), and October 25, 2006 (Special Joint Meeting w/Various Boards and Commissions) were approved as written.

E-3 Adopted Resolution No. 2006-191 authorizing advertisement for bids for the purchase of electrical controller panels for Water Wells 27 and 28 in the amount of \$62,000 and authorizing the City Manager to execute the purchase agreement for the equipment.

E-4 Adopted Resolution No. 2006-192 rejecting all bids and authorizing advertisement for rebidding the project for pool deck improvements at Blakely Park – Enze/Field Pool Complex, 1050 South Stockton Street.

E-5 Adopted Resolution No. 2006-193 authorizing award of agreement for rental and cleaning of uniforms for certain field and warehouse employees to Unifirst Corporation in the amount of \$20,454.

E-6 Adopted Resolution No. 2006-194 authorizing the City Manager to execute a professional services agreement with Wenell Mattheis Bowe for design services of the Municipal Service Center transit vehicle maintenance facility in an amount not to exceed \$75,000.

E-7 Authorized the City Manager to execute agreement with property owner for watershed mural at 207 West Oak Street.

E-8 Authorized the City Manager to execute land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park.

E-9 Adopted Resolution No. 2006-195 authorizing the City Manager to accept a grant award for the Railroad Corridor Transit Oriented Development (TOD) Plan from the California Department of Transportation (Caltrans) in the amount of \$75,000, with an in-kind contribution of \$9,250 and a fiscal contribution of \$9,500, and to execute all necessary agreements; and upon execution of the grant by Caltrans, authorized the City Manager to solicit proposals from qualified consultants to prepare a Railroad Corridor TOD Plan in a designated area downtown.

- E-10 Adopted Resolution No. 2006-196 amending Traffic Resolution 97-148 by converting the traffic control on Pleasant Avenue at Walnut Street from a yield to a stop control and approving pedestrian safety improvements on Walnut Street at Pleasant Avenue.
  - E-11 Adopted Resolution No. 2006-197 amending Traffic Resolution 97-148, Section 3, Street Parking Restrictions, by authorizing the Public Works Director to establish reduced no-parking and stopping zones adjacent to specific fire hydrants after approval by Fire Chief or authorized representative.
  - E-12 Adopted Resolution No. 2006-198 authorizing the Deputy City Manager and Budget Manager as signers on City of Lodi Farmers & Merchants Bank accounts.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Arthur Price spoke in opposition to the candidate survey circulated by the Chamber of Commerce regarding the upcoming municipal election.
- Ramona Henninger spoke in opposition to the Downtown Lodi Business Partnership (DLBP) assessment approval, vote tally, and procedure and requested a special meeting with staff regarding the same.
- Ray Golub spoke in opposition to the Lower Sacramento widening and its affect on his property.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman requested the DLBP ordinance and follow-up be brought back to Council. City Attorney Schwabauer stated, depending on the workload, the ordinance may come back to the Council by the second meeting in December.
- Council Member Hansen reported on his attendance at the monthly power agency meeting held at a geyser facility.
- Council Member Mounce reported on her attendance at the League of California Cities quarterly dinner and requested the housing replacement matter and youth commission bylaws be brought to Council.
- Mayor Hitchcock read a letter she received from a former student currently stationed in Iraq requesting guidance on the formation of local governments. City Manager King suggested International City/County Management Association as a resource. Mayor Pro Tempore Johnson stated he will create further dialogue with the Marine.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the following:
  - a) Certify the Lodi Annexation Environmental Impact Report for the Southwest Gateway Project (including "other annexation areas") and Westside Project
  - b) Approve the Southwest Gateway Project, which includes an annexation, pre-zoning, Development Agreement, and amendment to the Bicycle Transportation Master Plan, to incorporate 305 acres into the City of Lodi to allow construction of 1,300 dwelling units, 5 neighborhood/community parks, and a public elementary school on the west side of Lower Sacramento Road, south of Kettleman Lane, north of Harney Lane (including 565 and 603 East Harney Lane)

Including a City initiated request for the "other annexation areas" (48 acres) for annexation, General Plan amendment from a land use designation of PR (Planned Residential) to MDR (Medium Density Residential), and a pre-zoning of RMD (Residential Medium Density) to avoid creation of a county island

- c) Approve the Westside Development Project, which includes an annexation, pre-zoning, Development Agreement, amendment to the Bicycle Transportation Master Plan, and an amendment to the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 East Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*

#### Disclosures

Mayor Hitchcock disclosed she met with the applicant prior to the meeting and discussed the project, mitigation, fee for one-to-one acreage, and property purchase by the developer. She also stated she attended the related Planning Commission meeting.

Council Member Hansen disclosed he met with the applicant prior to the meeting and discussed the impact fee on one-to-one acreage, administrative costs, the buffer zone, and development agreement. He also stated the Westside project is behind his residence and City Attorney Schwabauer advised he may have a conflict of interest.

Council Member Beckman disclosed he spoke with the applicant prior to the meeting on two occasions and discussed mitigation measures for one-to-one acreage.

Mayor Pro Tempore Johnson disclosed he met with the applicant prior to the meeting, spoke with several members of the Planning Commission, and reviewed the tapes of the related Planning Commission meeting.

Council Member Mounce disclosed she met with the applicant prior to the meeting and discussed housing density, Harney Lane changes, and mitigation. She also stated she attended the related Planning Commission meeting.

#### RECESS

At 8:19 p.m. Mayor Hitchcock called for a recess to allow City Attorney Schwabauer time to review conflict of interest and disclosure matters, and the City Council meeting reconvened at 8:38 p.m.

#### I. PUBLIC HEARING (Continued)

I-1 City Attorney Schwabauer provided an overview of the real property conflict of interest (Cont'd.) rules and regulations. Mr. Schwabauer suggested the Council may hear the Southwest project but not consider the Westside project until it is determined whether a conflict exists. City Manager King concurred.

#### PUBLIC COMMENTS:

- Tom Doucette, the applicant, stated he is comfortable with proceeding on the Gateway project only.

Mayor Hitchcock inquired about the certification of the Environmental Impact Report (EIR). City Attorney Schwabauer suggested reserving judgment on the Westside portion.

- Ann Cerney spoke in opposition to conducting the public hearing for the Gateway project, stating bifurcation of the project creates confusion because the projects are intricately involved and recommended the project be heard in its entirety.
- Brian Youngblood spoke in opposition to proceeding with the public hearing, stating the projects should be heard together because they were previously presented together.

- Wendell Kiser, Planning Commissioner, spoke in opposition to proceeding with the public hearing, stating the Planning Commission felt the two projects were tied together.

Discussion ensued between Council Member Hansen and City Attorney Schwabauer regarding the specifics of the conflict of interest rules as they pertain to real property and the exceptions that may apply.

- Randy Snider spoke in favor of proceeding with the public hearing, stating two public hearings would have to be conducted if there is a conflict.
- Osha Meserve spoke in opposition to proceeding with the public hearing, stating the projects should be heard together for public participation and understanding since they were packaged together in an EIR.

### RECESS

At 9:04 p.m., Mayor Hitchcock called for a recess at the applicant's request, and the City Council meeting reconvened at 9:09 p.m.

### I. PUBLIC HEARING (Continued)

- I-1 Mr. Doucette, the applicant, requested the entire matter be continued to November 15, (Cont'd.) 2006.

#### MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Hitchcock second, unanimously voted to continue the entire matter to the November 15, 2006, regular City Council meeting.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider resolution establishing area of benefit and reimbursable costs for Lower Sacramento Road (Kettleman Lane to Harney Lane) improvements. *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*

City Manager King reported that a letter from the proponents had been received requesting that the hearing be continued to December 20, 2006.

#### MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously continued the public hearing to consider resolution establishing area of benefit and reimbursable costs for Lower Sacramento Road (Kettleman Lane to Harney Lane) improvements to the meeting of December 20, 2006.

### J. COMMUNICATIONS

- J-1 Claims filed against the City of Lodi – None

- J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Beckman, Mounce second, unanimously directed the City Clerk to post for the following expiring terms:

#### Lodi Senior Citizens Commission

Kathryn Siddle Term to expire December 31, 2006

#### Recreation Commission

Ken Sasaki Term to expire December 31, 2006

Ed Wall, Jr. Term to expire December 31, 2006

Barbara Wardrobe-Fox Term to expire December 31, 2006

San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee

Wade Broughton Term to expire January 31, 2007

Site Plan and Architectural Review Committee

Keith Selleseth Term to expire January 31, 2007

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$293,278.31)”

MOTION/ VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$293,278.31, as detailed below:

**Folger Levin & Kahn – Invoices Distribution**

Matter No.	Invoice No.	Date	Description	Water Acct. Total Amount
8002	97985	9/30/2006	People v. M&P Investments	\$ 98,968.81
8003	97988	9/30/2006	Hartford Insurance Coverage Litigation	\$147,876.91
8008	97989	9/30/2006	City of Lodi v. Envision Law Group	<u>\$ 33,326.60</u>
			Total	\$280,172.32

**Kronick Moskowitz Tiedemann & Girard – Invoices Distribution**

<b>Account: 100351.7323</b>				Total
11233.026	228236	09/25/06	Lodi First v. City of Lodi	\$ 97.84
11233.027	228236	09/25/06	Citizens for Open Government v. City of Lodi	\$ 152.00
			Total	\$ 249.84

**JAMS (Mediation Services)**

**Account: Water**

Invoice #0001204354-110	State of California v. M&P Investments	\$ 6,759.39
Invoice #00001199497-100	Hartford v. City of Lodi	<u>\$ 4,300.00</u>
	Total	\$ 11,059.39

**Document Services Unlimited**

**Account: Water**

Invoice #06SF929129 – Duplication of Oversize Sewer “Pin” Maps	\$ 898.38
Matter # 8003 Hartford v. City of Lodi	
Invoice #05SF101696 – Duplication of Oversize Sewer “Pin” Maps	<u>\$ 898.38</u>
Matter #8002 People v. M&P Investments	
Total	\$ 1,796.76

L. ORDINANCES

None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:15 p.m., in memory of William (Bill) Sunday, father-in-law of Council Member Hansen who passed away on October 20, and Jean Lechner, mother of City employee Rob Lechner who passed away on October 11.

ATTEST:

Randi Johl  
City Clerk